

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE J. EDWARD KLOIAN,

Case No. 04-CV-74485-DT

**ORDER DENYING DEBTOR J. EDWARD KLOIAN'S
MOTION FOR RECONSIDERATION OF THE COURT'S
SUA SPONTE DISMISSAL OF APPEAL**

On November 29, 2004, this court entered an "Order Dismissing Debtor J. Edward Kloian's 'Notice of Appeal'" [Dkt. # 3] in the above-captioned matter. On December 14, 2004, Debtor filed a motion for reconsideration of the court's order [Dkt. # 4] and on January 11, 2005 this court entered an order holding in abeyance a final determination of that motion [Dkt. # 5]. The court now determines that no reason exists to continue the motion in abeyance, and denies the motion.

The Bankruptcy Court had appointed a guardian ad litem for Debtor on March 26, 2003, after finding that Debtor was incompetent to proceed otherwise. Further, in the October 22, 2003 "Amended and Supplemental Order Appointing Ronald L. Rose Guardian Ad Litem for Joseph Edward Kloian, Debtor," the bankruptcy court clarified that the guardian ad litem is to,

represent Debtor's interest and be entitled to exercise Debtor's rights with respect to the settlement of, objection to, and litigation of any claims against the bankruptcy estate and any claims by Debtor against persons, partnerships, corporations or other business organizations against whom Debtor has a claim and which claim is an asset of the bankruptcy estate, including, without limitation appearing through his attorney or otherwise, in

any State court, for any purpose consistent with or in furtherance of any provision of this Order.

(10/22/03 Bankr. Ct. Order at 2.) The court has received periodic reports from the guardian ad litem which, although not amounting to medical diagnoses, do not allow the court to conclude that Debtor's mental condition or ability to handle his bankruptcy affairs, including appeals, has improved since the issuance of the above-mentioned orders.

Also, the Court of Appeals recently reviewed this court's dismissal of other *pro se* attempts to appeal and in each instance "affirm[ed] the district court's dismissal of Kloian's appeal and denial of Kloian's motion to reconsider . . ." *In re Kloian*, 2005 WL 1386446, *1 (6th Cir. June 10, 2005).

IT IS ORDERED that Debtor's *pro se* Motion for Reconsideration [Dkt. # 4] is DENIED. Accordingly, the guardian ad litem is released from the obligation of filing periodic reports to the court in this case.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: August 17, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 17, 2005, by electronic and/or ordinary mail.

S/Lisa G. Teets
Case Manager and Deputy Clerk
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